

## Foreign-Trade Zones Board, Commerce

## § 400.54

may authorize such extensions, with decisions on such authorizations taking into account both the circumstances presented and the importance of the Board submitting its annual report to Congress in a timely manner. Annual reports must be submitted in accordance with any instructions, guidelines, forms and related documents specifying place, manner and format(s) prescribed by the Executive Secretary. In the event that a grantee has not received all necessary annual report information from an operator in a timely manner, the grantee may submit its annual report on time and note the absence of the missing information.

(2) The Board shall submit an annual report to Congress.

### § 400.52 Notices and hearings.

(a) *In general.* The Executive Secretary shall publish notice in the FEDERAL REGISTER inviting public comment on applications and notifications for Board action (see, §§400.32 and 400.37(b)), and with regard to other reviews or matters considered under this part when public comment is necessary. An applicant under §§400.21, 400.24(b) and 400.25 shall give appropriate notice of its proposal in a local, general-circulation newspaper at least 15 days prior to the close of the public comment period for the proposal in question. The Board, the Secretary of Commerce, the Commerce Department's Assistant Secretary for Enforcement and Compliance, or the Executive Secretary, as appropriate, may schedule and/or hold hearings during any proceedings or reviews conducted under this part whenever necessary or appropriate.

(b) *Requests for hearings.* (1) A party who may be materially affected by the zone activity in question and who shows good cause may request a hearing during a proceeding or review.

(2) The request must be made within 30 days of the beginning of the period for public comment (see §400.32) and must be accompanied by information establishing the need for the hearing and the basis for the requesting party's interest in the matter.

(3) A determination as to the need for the hearing shall be made by the Com-

merce Department's Assistant Secretary for Enforcement and Compliance within 15 days after the receipt of such a request.

(c) *Procedure for public hearings.* The Board shall publish notice in the FEDERAL REGISTER of the date, time and location of a public hearing. All participants shall have the opportunity to make a presentation. Applicants and their witnesses shall ordinarily appear first. The presiding officer may adopt time limits for individual presentations.

### § 400.53 Official records; public access.

(a) *Content.* The Executive Secretary shall maintain at the location stated in § 400.54(e) an official record of each proceeding within the Board's jurisdiction. The Executive Secretary shall include in the official record all timely evidence, factual information, and written argument, and other material developed by, presented to, or obtained by the Board in connection with the proceeding. While there is no requirement that a *verbatim* record shall be kept of public hearings, the proceedings of such hearings shall ordinarily be recorded and transcribed when significant opposition to a proposal is involved.

(b) *Opening and closing of official record.* The official record opens on the date the Executive Secretary docketed an application or receives a request or notification that satisfies the applicable requirements of this part and closes on the date of the final determination in the proceeding or review, as applicable.

(c) *Protection of the official record.* Unless otherwise ordered in a particular case by the Executive Secretary, the official record shall not be removed from the Department of Commerce. A certified copy of the record shall be made available to any court before which any aspect of a proceeding is under review, with appropriate safeguards to prevent disclosure of business proprietary or privileged information.

### § 400.54 Information.

(a) *Request for information.* The Executive Secretary, on behalf of the Board,

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may request submission of any information, including business proprietary information, and written argument necessary or appropriate to the proceeding.

(b) *Public information.* Except as provided in paragraph (c) of this section, the Board shall consider all information submitted in a proceeding to be public information, and if the person submitting the information does not agree to its public disclosure, the Board shall return the information and not consider it in the proceeding. Information to meet the basic requirements of §§ 400.21–400.25 is inherently public information to allow meaningful public evaluation pursuant to those sections and § 400.32.

(c) *Business proprietary information.* Persons submitting business proprietary information and requesting that it be protected from public disclosure shall mark the cover page, as well as the top of each page on which such information appears, “business proprietary.” Any business proprietary document submitted for a proceeding other than pursuant to § 400.45 shall contain brackets at the beginning and end of each specific piece of business proprietary information contained in the submission. Any such business proprietary submission shall also be accompanied by a public version that contains all of the document’s contents except the information bracketed in the business proprietary version, with the cover page and the top of each additional page marked “public version.” Any information for which business proprietary treatment is claimed must be ranged (*i.e.*, presented as a number or upper and lower limits that approximate the specific business proprietary figure) or summarized in the public version. If a submitting party maintains that certain information is not susceptible to summarization or ranging, the public version must provide a full explanation specific to each such piece of information regarding why summarization or ranging is not feasible.

(d) *Disclosure of information.* Disclosure of public information shall be governed by 15 CFR part 4.

(e) *Availability of information.* Public information in the official record shall

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be available at the Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce Building, 1401 Constitution Avenue NW., Washington, DC 20230 and may also be available electronically over the Internet via <http://www.trade.gov/ftz> (or a successor Internet address).

### Subpart G—Penalties and Appeals to the Board

#### § 400.61 Revocation of authority.

(a) *In general.* As provided in this section, the Board can revoke in whole or in part authority for a zone or subzone whenever it determines that the zone grantee has violated, repeatedly and willfully, the provisions of the Act.

(b) *Procedure.* When the Board has reason to believe that the conditions for revocation, as described in paragraph (a) of this section, are met, the Board shall:

(1) Notify the grantee of the zone in question in writing stating the nature of the alleged violations, provide the grantee an opportunity to request a hearing on the proposed revocation, and notify any known operators in the zone;

(2) Conduct a hearing, if requested or otherwise if appropriate;

(3) Make a determination on the record of the proceeding not earlier than four months after providing notice to the zone grantee under paragraph (b)(1) of this section; and

(4) If the Board’s determination is affirmative, publish a notice of revocation of authority, in whole or in part, in the FEDERAL REGISTER.

(c) As provided in section 18 of the Act (19 U.S.C. 81r(c)), the grantee of the zone or subzone in question may appeal an order of the Board revoking authority.

#### § 400.62 Fines, penalties and instructions to suspend activated status.

(a) *In general.* Fines are authorized solely for specific violations of the FTZ Act or the Board’s regulations as detailed in §§ 400.62(b) and (c). Each specific violation is subject to a fine of not more than 1,000 dollars (as adjusted for inflation pursuant to § 400.62(j)), with each day during which a violation